

Message Text

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EXDIS

E.O. 11652: XGDS-2
TAGS: PFOR, SY, CY, US
SUBJECT: DAVIES CASE

REF: (A) NICOSIA 0353, (B) NICOSIA 0444, (C) STATE 36421

1. IN ACCORDANCE WITH REFTELS, PHERSON HAD AN INITIAL MEETING WITH GEORGE POLYVIOU ON FEB 22. POLYVIOU HAS SERVED AS THE EMBASSY'S COUNSEL ON A NUMBER OF OCCASIONS OVER THE YEARS. WE HAVE FOUND HIS GRASP OF THE CYPRUS JUDICIAL AND POLITICAL SCENE TO BE CONSISTENTLY ON TARGET.

2. POLYVIOU'S KNOWLEDGE OF THE DAVIES CASE, PRIOR TO PHERSON'S BRIEFING, HAD STEMMED SOLELY FROM LOCAL PRESS ACCOUNTS. HE SAID HE HAD BEEN PUZZLED OVER EXTENSIVE PRESS REFERENCES TO THE TELEVISION FILM COVERAGE, AND PHOTOGRAPHS DERIVED FROM IT, ON WHICH THE PROSECUTION EXPECTED TO BUILD ITS CASE. AFTER THIS POINT WAS CLARIFIED, I.E., THAT NEITHER THE EMBASSY NOR CYPOL HAD EVER PROPOSED TO INTRODUCE THE FILM COVERAGE INTO EVIDENCE, PHERSON REVIEWED THE SCOPE OF THE CYPOL INVESTIGATIVE EFFORTS IN SOME DETAIL.

3. AFTER THE BRIEFING, POLYVIOU CONCLUDED THAT WITHOUT THE PHOTOGRAPHIC EVIDENCE THE GOC DOES NOT HAVE

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A STRONG CASE TO SUSTAIN ALL THREE HOMICIDE CHARGES. HE EXPECTS NO DIFFICULTY IN THE GOC OBTAINING CONVICTIONS ON THE LESSER CHARGES OF ILLEGALLY CARRYING OR USING FIREARMS, OF ILLEGALLY POSSESSING EXPLOSIVES, OF RIOTING, ETC. HE OFFERED THESE FURTHER OBSERVATIONS:

A. THE MOST ABLE OF THE SIX DEFENSE LAWYERS IS

LEFCOS CLERIDES (RETAINED BY LOIZOU SAVVA). HE HAS A WELL-KNOWN PROPENSITY FOR HISTRIONICS, AS WELL AS FOR EXPLOITING ANY COURT ROOM SITUATION FOR MAXIMUM FAVORABLE PUBLICITY. ANOTHER DEFENSE LAWYER, CHRISTOS VAKIS (RETAINED BY XENOFONTOS), ONCE HELD A GOC MINISTERIAL POSITION AND IS WELL-RESPECTED FOR HIS ABILITY AND INTEGRITY.

B. ON THE OTHER HAND, THE COUNSEL FOR THE REPUBLIC, GLAFCOS MICHAELIDES, WHILE ABLE AND DILIGENT, IS ALSO YOUNG AND RELATIVELY INEXPERIENCED; IN THE CONTEXT OF A COURTROOM CONFRONTATION HE WILL BE AT A DISADVANTAGE AGAINST SUCH SEASONED OLD HANDS AS CLERIDES AND VAKIS.

C. IT FOLLOWS, AFTER CONSIDERING (A) AND (B) ABOVE, THAT THE CHANCES FOR SUCCESSFUL GOC PROSECUTION WOULD IMPROVE IMMEASURABLY IF THE CASE IS NOT FORWARDED TO THE DISTRICT COURT FOR PRELIMINARY INQUIRIES BUT IS ASSIGNED DIRECTLY TO A SPECIAL ASSIZES COURT FOR AN IMMEDIATE TRIAL. THE LATTER PROCEDURE WAS FOLLOWED IN THE NICOS SAMPSON TRIAL BECAUSE OF THE SERIOUS NATURE OF THE CHARGES AND THEIR PROBABLE IMPACT AGAINST THE NATIONAL INTERESTS OF THE REPUBLIC. THE SAME REASONING SHOULD HOLD IN THE DAVIES CASE. IN ESSENCE, THE PRELIMINARY INQUIRIES PROCEDURE WOULD GREATLY BENEFIT THE DEFENSE, COULD BE SPUN OUT OVER MANY WEEKS OF ACRI-MONIOUS CROSS-EXAMINATION, AND WOULD SERVE TO IDENTIFY THE PRINCIPAL WITNESSES BOTH TO THE DEFENSE AND TO THE PUBLIC. THIS COULD ONLY RESULT IN INCREASING APPREHENSION AMONG THE WITNESSES, AND IN CORRESPONDING

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LAPSES OF MEMORY. THEN, WHEN THE PRELIMINARY HEARINGS WERE FINALLY CONCLUDED, AN ASSIZES COURT WOULD STILL HEAR THE CASE. DIRECT REFERRAL TO A SPECIAL ASSIZES COURT, WITH NO PRELIMINARY INQUIRIES, WOULD CONSIDERABLY LESSEN THESE THREATS TO A TIMELY AND JUDICIOUS PROSECUTION.

4. ACCORDING TO POLYVIOU, WHEN THE DAVIES JUDICIAL PROCEEDINGS GET UNDERWAY AGAIN THE EMBASSY WILL BE ENTITLED TO COPIES OF ALL DEPOSITIONS, IF THE PROCEEDINGS ARE IN THE FORM A PRELIMINARY INQUIRIES HEARING. IF THE CASE GOES DIRECTLY TO A SPECIAL ASSIZES COURT, THE PROSECUTION WILL BE BASED ON A CYPOL REPORT SETTING FORTH THE GIST OF THEIR INVESTIGATION. (THIS WOULD NOT BE THE SAME AS THE CYPOL COVERING REPORT.) THE EMBASSY WOULD GET A COPY OF THIS GIST REPORT AT THE SAME TIME IT IS GIVEN TO THE DEFENSE LAWYERS. ANY OTHER INFORMATION, OR RITTEN MATERIAL, GIVEN THE EMBASSY BY CYPOL OR THE ATTORNY GENERAL (A/G) PRIOR TO THE TRIAL WOULD BE OUT OF THE ORDINARY AND COULD BE

CONSIDERED AT THE TRIAL AS PREJUDICIAL TO PROPER TRIAL PROCEDURES. POLYVIOU WAS SURPRISED THAT PHERSON HAS HAD ACCESS TO THE CYPOL COVERING REPORT.

5. AS THE DAVIES TRIAL DATE DRAWS CLOSER, WE WILL CONTINUE TO EMPHASIZE OUR CONCERN TO THE A/G THAT THE CASE BE PROCESSED TO BRING THE ACCUSED TO JUSTICE WITHOUT INTERRUPTION OR FURTHER DELAY. WE SHOULD HAVE A BETTER FEELING FOR THE A/G'S PROPOSED COURSE OF ACTION WITHIN A FEW DAYS. MEANWHILE, PHERSON HAS COMPLETED HIS DETAILED REVIEW OF THE CYPOL COVERING REPORT. IT IS IN PROCESS FOR FORWARDING, WITH OUR ANALYSIS AND COMMENTS, IN A SECTION-BY-SECTION FORMAT.
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